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Counsel for Plaintiff
Admitted *pro hac vice*

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT COURT OF UTAH
CENTRAL DIVISION

W. CLARK APOSHIAN,

Plaintiff,

v.

MATTHEW WHITAKER ACTING
ATTORNEY GENERAL
OF THE UNITED STATES, et al.

Defendants.

CIVIL ACTION NO.: 2:19-cv-00037-JNP

**PLAINTIFF'S OPPOSITION TO
DEFENDANTS' MOTION FOR A STAY**

Plaintiff, W. Clark Aposhian, through undersigned counsel opposes Defendants' Motion for a Stay of Proceedings in Light of Lapse of Appropriations (Doc. 16). Plaintiff requests that this Court either order Defendants to respond to Plaintiff's Motion for a Preliminary Injunction by February 13, 2019 or stay the proceeding while also staying the effective date of the Final Rule at issue in this case until government funding is restored.

Plaintiff opposes Defendants' stay request because he is currently in possession of a bump stock device and has been directed by Defendants "to destroy the device[] or abandon [it] at an ATF office prior to" "March 26, 2019." *Bump-Stock-Type Devices*, 83 Fed. Reg. 66514, 66555 (Dec. 26, 2018). But the ongoing government shutdown has no certain end date, and may

well stretch beyond the March 26th effective date of the challenged rule. This would require Plaintiff to either violate the proposed rule and face possible criminal prosecution or surrender his device and potentially lose standing to challenge the rule. In order to avoid this Hobson's choice, Plaintiff requests that this Court order Defendants to respond to his motion.

Plaintiff does not object to the Court granting Defendants an extension of time to respond to his motion for a preliminary injunction until February 13, 2019. Alternatively, Plaintiff would not object to the Court staying the proceeding while simultaneously staying the effective date of the challenged rule.

January 24, 2019

Respectfully,

/s/ Caleb Kruckenberg

Caleb Kruckenberg

Litigation Counsel

Steve Simpson

Senior Litigation Counsel

New Civil Liberties Alliance

CERTIFICATE OF SERVICE

I hereby certify that on January 24, 2019, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which sent notification of such filing to all counsel of record.

Respectfully,

/s/ Caleb Kruckenberg

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